

**HUMAN RIGHTS TRIBUNAL OF ONTARIO**

**BETWEEN:**

**LEROY COX**

**Applicant**

**-and-**

**ONTARIO PUBLIC SERVICE EMPLOYEES UNION and HER MAJESTY THE  
QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTRY OF  
COMMUNITY SAFETY AND CORRECTIONAL SERVICES**

**Respondents**

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**AFFIDAVIT OF LEROY COX**

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I, LEROY COX of the City of Toronto, in the Province of Ontario, DO HEREBY AFFIRM:

1. I am the applicant in this matter and as such have knowledge of the matters hereinafter deposed. Where I have relied on information of others, I have identified the source of the information and do verily believe that information to be true.

**Background on Employment with Toronto Jail**

2. I began working as a correctional officer at the Toronto Jail in July 2004. I transferred to the Toronto Jail as result of the Toronto Youth Assessment Centre closing. There were a number of correctional officers that transferred to the Toronto Jail during this time period and the majority of us were African-Canadian. The new wave of correctional officers to the Toronto

Jail caused a reduction in the overtime hours and created an unwelcoming and hostile working environment.

3. Shortly after coming to the Toronto Jail in July 2004, racist graffiti began to appear in staff washrooms, staff locker rooms and control modules. These areas were only accessible by Toronto Jail staff and not accessible to inmates.
4. In 2005, racist hate mail began arriving at the Toronto Jail targeting only racialized correctional officers working at the Toronto Jail. I, along with other racialized correctional officers commenced grievances against the Employer for the discriminatory work environment.
5. As a result of the hostile and discriminatory work environment and racist hate mail targeting African-Canadian correctional officers, I was on an unpaid leave of absence from October 8, 2009 until January 14, 2011, when I was directed back to work by Vice-Chair Albertyn in his decision of my grievance dated December 16, 2010.
6. The December 16, 2010, decision finalized my grievance. The grievance only addressed the racist hate mail and poisoned work environment up to December 2009.
7. The basis of my current complaint to the Human Rights Tribunal, addresses violations of my human rights which occurred subsequent to December 2009.

### **Violations of the Code by my Employer**

8. The first incident occurred on April 1, 2010, when a piece of racist hate mail was received at the Toronto Jail which specifically identified me. The letter stated as follows:

*Take what yours now that you are in charge and nigga Jones has to listen up. Some of these asshole niggas will be killed if you back these niggas... Cox.... Segregation today segregation tomorrow, segregation forever.*

Attached as Exhibit A to this my affidavit is a true copy of the April 1, 2010, letter.

9. On November 30, 2010, a further racist letter was received at the Toronto Jail. The letter advised that the writers were aware that some of the African-Canadian correctional officers were trying to relocate to other facilities or were off from work and threatened to locate them and cause them physical harm. Attached as Exhibit B to this my affidavit is a true copy of the November 30, 2010, letter.

10. I returned to work on January 14<sup>th</sup>, 2011 at the Toronto Jail. Prior to my return to work, I was advised by Ms. Simone Williams and do verily believe that in December 2010, a piece of racist hate mail was received threatening bodily harm to African-Canadian correctional officers at the Toronto Jail. Because I was not specifically named in the letter, I did not receive a copy of the letter from my Employer, nor was I advised by my Employer of the threats made towards African-Canadian correctional officers.

11. I am further advised by Ms. Williams and do verily believe, that despite a policy which is supposed to exempt letter recipients from the employee attendance program, she was placed in the program. The employee attendance program is a program employees are subject to when they have missed more than 7 days of work within a one year period. The program is designed to minimize the amount of time an employee misses work due to illness. It had been stipulated that recipients of the racist hate mail would not be subject to this program. It was previously acknowledged that the letter recipients were in a vulnerable psychological position and may require extended absences from the workplace. Despite this acknowledgment, the Employer has directed letter recipients into this program, despite not enforcing the program for other employees who are not letter recipients.
  
12. On March 8, 2011, while I was working in the programs area on the 5<sup>th</sup> floor, I noticed a swastika written on the wall with the words "snake" and "rat" written below it. Although this area is accessible to inmates, inmates' graffiti is commonly comprised of gang signs and names. These words, "snake" and "rat" are often used in the racist hate mail sent to the Toronto Jail to describe African-Canadian correctional officers. The words "snake" and "rat" were also used in the racist graffiti left in the staff washroom and locker rooms in 2004. In addition, given that the racist hate mail consistently refers to the "white brotherhood" and the "KKK" it is my belief that this racist graffiti was created by the individual(s) that have been sending racist hate mail to the African-Canadian correctional officers. I advised my superiors of the swastika and provided an occurrence report. Attached as Exhibit C to this my affidavit is a true copy of the occurrence report completed on March 8, 2011.

13. The swastika was removed later that day, but no investigation was performed regarding who placed the swastika on the wall, nor was any memorandums circulated to employees advising of the necessity to ensure a harassment free workplace. The Employer seemed to have little regard for the effects on African-Canadian correctional officers being exposed to racist graffiti in the workplace.

14. On July 18, 2011, another piece of racist hate mail was received at the jail. The letter specifically identifies and makes threats towards me. Although I was working on that the date, my Employer failed to inform me of the letter until I left the Toronto Jail and was at home. The letter states:

***"...Why did you return Coxey. The workplace is so peaceful without you fucking niggas why don't you all stay the fuck out... Cox only a matter of time fucker..."***

Attached as Exhibit D to this my affidavit is a true copy of the July 18, 2011, letter.

15. As a result of receiving the letter, I feared for my safety in the workplace. I was not advised of what, if any, steps the Employer would take to address this latest letter. I determined it was prudent to take some time off of work and I remained off from July 20<sup>th</sup> to July 24<sup>th</sup>, 2011.

16. Upon my return to work on July 25, 2011, I met with Deputy Superintendent Debris. I informed her of my concerns regarding the newest letter and my fear for my safety while the perpetrator(s) remained at large.

17. I requested that I be accommodated with a shift in admitting and discharge as this was a more open area, with more colleagues working in that area which made me feel safer. At the time of the July 18, 2011, letter I was working in a living unit with one other correctional officer. When working on the units we are paired with a partner and it is just yourself and the other correctional officer working that area. Working in this environment heightened my fear as I was concerned that the letters threatening my life were coming from unidentified coworkers in the institution. Deputy Superintendent Debris advised that she would have to take my request to the Superintendent.
18. On August 10, 2011, I met with Deputy Superintendent's Debris and Hanafin and was advised that my request for accommodation had been denied. Due to the refusal to accommodate me with a shift in admitting and discharge, I began experiencing increased levels of stress, irritability, and nervousness. My family doctor recommended a medical leave of absence and I supplied my supervisor with a note from my doctor recommending the leave. Attached as Exhibit E to this my affidavit is a true copy of a note from my family doctor dated August 22, 2011.
19. My medical leave of absence was from August 22, 2011, to January 14<sup>th</sup>, 2012. To facilitate this leave I was required to utilize all my sick days and all but four vacation days. During my leave, I was advised by Ms. Simone Williams and do verily believe that another racist letter was received at the Toronto Jail. Although I was not named personally in the letter, the letter had death threats directed at all African-Canadian correctional officers. I was not provided with a copy of this letter by my Employer or advised of the contents of the letter.

20. Since April 1, 2010, the Toronto Jail remains a hostile and poisoned work environment. My Employer has not taken any proactive steps since April 1, 2010, to find the perpetrators of the racist hate mail or to accommodate those African-Canadian guards affected by the racist hate mail.
21. The Toronto Jail has not mandated that its employees or management participate in anti-discrimination or workplace harassment workshops. Although these programs exist, nothing is done to ensure that all employees within the Toronto Jail attend these programs. In addition, there is a racial sensitivity program that is supposed to be mandatory for all employees of the Toronto Jail. I am aware that a majority of the correctional officers at the Toronto Jail have not participated in this program. The Toronto Jail continues to be a breathing ground for racial discrimination, and although the threats and frequency of the letters increase, the Employer seems content to take no action to address the situation.

#### **Violations of the *Code* by OPSEU**

22. In and around May 2010, I was advised by former Local Union President Chris Cosier and do verily believe that during the Employer's attempted section 22 review into the source of the racist hate mail in the workplace, OPSEU actively attempted to undermine the investigation by refusing to let union executive members participate in the investigation.
23. OPSEU was aware that the purpose of this investigation was to uncover the perpetrators of the racist hate mail and by actively undermining the investigation, OPSEU served to

contribute to the racist, hostile and discriminatory work environment of the African-Canadian correctional officers.

24. In addition, OPSEU's actions served to favour the interests of Caucasian union members, in undermining an effort to uncover the source of the racist hate mail over the interests of African-Canadian union members to enjoy a workplace free from discrimination and harassment. Attached as Exhibit F to this my affidavit is a copy of a signed statement from Chris Cosier.
25. OPSEU is tasked with fairly representing the interests of all of its union members without regard to race, sex, or creed. Where members of the union have been targeted for discrimination and threats of violence by other members of the union, OPSEU has an increased duty not to favour, or appear to favour, one group of union members over another.
26. During the grievance procedure, OPSEU provided representation to the victims of the racist hate mail as well as the alleged perpetrators. OPSEU provided both groups with the same union steward Jim Paul, to advance their interests at the grievance. Mr. Paul was privy to information regarding the offers of settlement for members of both groups, and pushed African-Canadian correctional officers to accept settlements they felt were unfair.
27. It is my understanding that many of the correctional officers alleged to be perpetrators received settlements that vastly surpassed the remedies offered to the victims. Mr. Paul was in an irreconcilable conflict of interest, and it appears that he favoured the interests of the




Caucasian correctional officers over the interests of the African-Canadian correctional officers.

28. OPSEU is and has been aware of the hostile and discriminatory working environment facing African-Canadian correctional officers working at the Toronto Jail. The union has a duty not to contribute to the continuation of discrimination in the workplace. The union cannot behave as if it were a bystander and assert that the duty to correct the discriminatory work environment is strictly a matter for the Employer to solve.

29. I make this affidavit in opposition to the Respondents' request to dismiss my application and for no other or improper purpose.


AFFIRMED BEFORE ME this )  
 9<sup>th</sup> day of February, 2012 )  
 in the City of Toronto, )  
 in the Province of Ontario )  
 )

  
 \_\_\_\_\_  
 A Commissioner etc.  
 Asha James

  
 \_\_\_\_\_  
 Leroy Cox



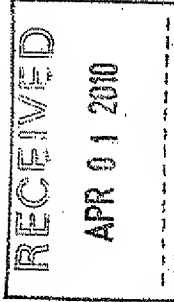
This is Exhibit "A" referred to in the Affidavit of Leroy Cox, Sworn Before me, on this  
9<sup>th</sup> day of February, 2012

  
\_\_\_\_\_  
A Commissioner For Taking Affidavits

Take what you want that you are in charge and  
nigger goes has to listen up.

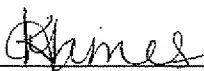
Some of these asshole niggers will be killed if you fuck  
these niggers in [REDACTED] Co, [REDACTED]  
[REDACTED]

Segregation Today segregation tomorrow, segregation  
for ever.  
Before the





This is Exhibit "B" referred to in the Affidavit of Leroy Cox, Sworn Before me, on this  
9<sup>th</sup> day of February, 2012

  
\_\_\_\_\_  
A Commissioner For Taking Affidavits

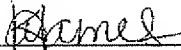


**C. DON MILAN WEST DETENTION CENTER**





This is Exhibit "C" referred to in the Affidavit of Leroy Cox, Sworn Before me, on this  
9<sup>th</sup> day of February, 2012

  
\_\_\_\_\_  
A Commissioner For Taking Affidavits



Occurrence Report/  
Rapport d'incident

☐ Youth/Adolescent(e) ☐ Inmate/détenu(e) ☐ Other; specify/Autre: précisez

To Superintendent/Surintendant(e)	Institution/Établissement	Date	Time/Heure
Ms. R. Buhagiar	Toronto Jail	03/08/2011	1105
Subject/Nature of Report/ Sujet/Nature du rapport			
Swastika on S/B Wall			

Markam.

On Tuesday March 8, 2011 at 1040 at The Toronto Jail, I was on a 0900-2100 shift assigned to The Program Area. I was walking on the S/B landing talking to Cpt Williams, S when I noticed a Swastika written on the outside wall by the side elevator, and then I looked on the inside wall and saw the words "snake" and "Rat" written on that wall. I showed it to Cpt Williams and she informed me to contact the 5th floor Captain. About 1045 I saw Captain Valaitis and I informed him of this sighting. About 1055 I was coming off the side elevator and I saw Cpt Valaitis taking a picture of the Swastika. Cpt. Valaitis then told me to write an Occurrence report.

Respectfully Submitted

This information is collected under the authority of the Ministry of Correctional Services Act for the purpose of documenting facts concerning a particular event. Please direct any questions about the collection of this information to a ministry employee.

"Note: Young offender information is subject to the provisions of the Young Offenders Act."

CAUTION: THIS RECORD CONTAINS INFORMATION ABOUT A YOUNG PERSON  
WHICH IS SUBJECT TO THE YOUTH CRIMINAL JUSTICE ACT.  
L'information sur une jeune personne est soumise à la Loi sur le système  
de justice pénale pour les adolescents. Les renseignements concernant  
une jeune personne sont soumis aux dispositions de la Loi sur le système  
de justice pénale pour les adolescents. Les renseignements sont soumis  
aux dispositions de la Loi sur le système de justice pénale pour les  
adolescents. L'information sur une jeune personne est soumise à la  
Loi sur le système de justice pénale pour les adolescents.

Ces renseignements sont recueillis en vertu de la Loi sur le ministère de la Sécurité et de la Sécurité publique afin de documenter des faits concernant un incident particulier. Prière d'adresser toutes les questions relatives à la collecte de ces renseignements à un(e) employé(e) du ministère.

"Avis: Les renseignements sur les jeunes contrevenants(es) sont régis par les dispositions de la Loi sur les jeunes contrevenants."

AVERTISSEMENT: CE DOSSIER CONTIEN DES RENSEIGNEMENTS  
SUR UN(e) ADOLÉSCENT(E) ASSUÉTISSE(S) À LA LOI SUR LE SYSTÈME  
DE JUSTICE PÉNALE POUR LES ADOLÉSCENTS.  
Les renseignements concernant une jeune personne sont soumis aux  
dispositions de la Loi sur le système de justice pénale pour les  
adolescents. Les renseignements sont soumis aux dispositions de la  
Loi sur le système de justice pénale pour les adolescents. L'information  
sur une jeune personne est soumise à la Loi sur le système de justice  
pénale pour les adolescents.

Page 1 of 1

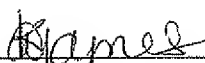
Print Name of Reporting Officer & Titre/Imprimez Nom de l'auteur du Rapport/Titre

L. Cox C02

Signature of Reporting Officer/Signature de l'auteur du rapport



This is Exhibit "D" referred to in the Affidavit of Leroy Cox, Sworn Before me, on this  
9<sup>th</sup> day of February, 2012

  
\_\_\_\_\_  
A Commissioner For Taking Affidavits

THIS IS A SUMMARY OF THE LAST TWO UPDATES THAT I WERE SENT OUT BUT I APPRE-  
HEND THEY WERE SNATCHED BY SOME FIGURE HEADS IT IS CONFIRMED THAT AGI  
SIN COSI RICO WITH HIS LOVER ALIVE THAT IS ONE TOUGH MOTHER FUCKER  
GOWASSO RELIEVED THAT HIS NIGGA ASS WAS DEAD BUT THAT SCUMBAG WILL  
NOT LAST LONG NOT ALL THE SHIT THAT WAS DONE TO HIS SORRY ASS GUNBU-  
TT ASSAULTED ATTEMPT BURNING APARTMENT VANDALIZE CAR STICK KNIFE  
INDOOR WITH WARNING ATTEMPT SHOOTING HIM THROUGH APARTMENT WIN-  
DOW AT RESTUARANT 226 LEAVE WITHOUT PAYING GET CAND THAT HOMON-  
IGGAS SURVIVED HENCE THE NEW NAME FUKING CATFAG (9 LIVES) GOWILL EN-  
SURE THAT UNDER HARPER THERE WILL BE NO PLACE FOR HOMOS IN THE WORK-  
PLACE ALL HOMOS MUST BE KILLED SHOT BURN HANG NO FAGS IN THE WORKPL-  
ACE WHY DID YOU RETURN COXLEY THE WORKPLACE IS SO PEACEFUL WITHOUT  
YOU FUKING NIGGAS WHY DON'T YOU ALL STAY THE FUCK OUT NIGGAS RAT DI-  
LL YES YOU ARE LOUD NINE ONLY FOR A MATTER OF TIME GOALWAYS AC-  
COMPLISH ITS GOALS YOU ARE THE BOLD GOLD BAD ASS BITCH WHO NO ONE LIK-  
ES SOME PRETEND BUT UGOK KNOWS NO ONE FUKING LIKE YOU SO SKIP TOWN DI-  
SAPPEAR COUNT SO THE WORKPLACE BE A PEACEFUL ENVIRONMENT AND ROSE  
YOU BETTER STAY THE FUCK HOME WITH YOUR BASTARD CHILD NO NIGGAS  
WELCOME GO BACK FROM WHENCE YOU ALL CAME THAT IS WHERE YOU BELONG  
MOTHER FUCKERS WHITES ARE SUPERMACY ALWAYS RULE DO NOT BELIEVE  
D THE SUPERMACY (WHITES) PLACE NIGGAS IN POSITION FOR A REASON AFTER  
THE REASON IS ACCOMPLISHED THEN NIGGAS KICKED THE FUCKING OUT YOU NIGG-  
AS ALL CLAIM YOU ARE SOME SMART ASS AND THINGS LIKE THIS YOU JUST DON-  
OT FUKING GET IT YOU ARE A BUNCH OF SHIT HEADS AGAIN NIGGAS WHO WILL  
NOT OBEY OR COMPLY WITH ORDERS FROM THEIR MASTERS LEAVE BEFORE YOU  
ARE FUKED NO SMART ASS NIGGAS ARE WELCOME NIGGAS AND FAGGOTS WILL  
BE EXECUTED BURNED HANG PERSECUTED GOWILL MAKE A PROPOSAL TO HAR-  
PER TO CONVERT THE SUPERJAIL TO ALL BLACK NIGGAS JAIL NIGGAS MAY  
BE PLACED IN POSITION TO MANAGE BUT WHITES ULTIMATELY CALL THE FUCKI-  
NG SHOTS NOT MUCH FROM HADEN THESE DAYS UGO THINK THAT SCUMBAG  
GETS THE MESSAGES SMART ASS NIGGA KEEP IT THAT WAY YOU FUKING ASSH-  
OLE MOTHER FUCKER WITH YOUR GIRAFFE SELF AND YOU CAROL GRIMOND DO  
NOT THINK UGO FORGET YOU WERE BUDDY  
BUDDY WITH CATFAG THEN TAKE OFF TO OCEAN WHERE YOU ARE STILL STRUGGLI-  
NG STILL CANNOT HAVE IT YOU FUKING WAY FAHUCK BIG MOUTH NOT EVEN  
YOU OWN NIGGAS DO NOT LIKE YOU AGAIN WHITES RULE YOU ARE JUST TALKI-  
NG FOR A REASON HATE NIGGAS FUK NIGGAS NIGGAS WILL ALWAYS BE NIG-  
GAS AND WHITES WILL ALWAYS BE THEIR MASTERS NEWS FLASH!!!!!! RATT A-  
GIS NOT DEAD HAS WAS REPORTED ADELL GATEE OVERHEARD RAT DI LL ON THE  
PHONE TELLING RATFAG QUOTE HOLD ONTREVITS WORK A WANDA WHAT  
THEY WANT NOW THIS WAS IN A SHOPPING AREA AND COULD BE FUKING A FAL-  
SE THERE WERE NOT SO MANY PEOPLE AROUND UGO DID SOME INVESTIGATION  
GOT THE TAIL END OF A CONVERSATION THAT IS IN RICO SO UGO BELIEVES RAT-  
FAG IS EITHER IN PUERTO RICO OR COSTA RICA AND THAT IS WHERE THAT SCUM-  
BAG NEEDS TO STAY HOPEFULLY MORE NIGGAS WILL FOLLOW IN HIS FOOTSTEPS  
PU-GOW AN IS YOU NIGGAS O-I-

TROSE YOU DONT NEED COMING BACK STAY IN YOUR HOLE AND TAKE CARE  
OF PERRY BASTARD CHILD YOU SUT TOX ONLY A MATTER OF TIME TUCKER  
CRAID WILL SHOWN OTHERS WILL FOLLOW IF U GOT ANNOYED THAT BITCH  
NWA YEGOW WILL GET THAT MOTHER RUCKERS SOME OTHER NWA HARPER IS IN  
CONTROL NOW SONIG GAS AND AGGOTS WATCH OUT





This is Exhibit "E" referred to in the Affidavit of Leroy Cox, Sworn Before me, on this  
9<sup>th</sup> day of February, 2012

  
A Commissioner For Taking Affidavits

DR. ILM. SAJO  
MOBURN MEDICAL DENTAL CENTRE  
4129 LAWRENCE AVENUE EAST  
SCARBOROUGH, ON M1E 2S2  
TEL: (416) 439-1991 FAX: (416) 439-3593

Name: *Cox* (1979)  
Address: *Beckley Ave*  
SECURITY FEATURES ON BACK Date: *22/06/11*

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Please be advised this  
patient is not capable  
of entering pharmacy  
for medical records

☐ Label  
☐ No Substitution




Signature \_\_\_\_\_ M.D.  
REPEAT 1 2 3 4 5 PRN NR

RXS20110525-141219-48C



This is Exhibit "F" referred to in the Affidavit of Leroy Cox, Sworn Before me, on this  
9<sup>th</sup> day of February, 2012

  
\_\_\_\_\_  
A Commissioner For Taking Affidavits

### **Statement of Chris Cosier**

1. This statement pertains only to events that occurred prior to my becoming an Operational Manager at the Toronto Jail.
2. I am the former Union Local 530, OPSEU President. I was the President between 1995 and 2006, which included a time period in which racist events, including the sending of racist hate mail, at the Toronto Jail were taking place.
3. I received a seconded position to OPSEU as a Staff Representative. I worked in that position from 2006-2007. When I took that position, I was instructed by Pam Doige to stay away from the union local executive members because it was a "political hotbed."
4. Jim Paul is a union Staff Representative. He was assigned by the OPSEU President to oversee the entire grievance process arising from the racist events on behalf of the union. He was responsible for approving settlements on behalf of the union. He gave instructions to counsel for Group A grievors and counsel for Group B grievors.
5. Jim Paul was also responsible for advising all grievors in Group A and Group B with respect to offers of settlement from the employer.
6. In March 2007 a section 22 investigation under the Ministry of Correctional Services Act was launched into the racist behavior in the workplace. I was requested by investigator Ken Taylor to assist with the investigation as he believed I would possess good information with regards to the possible sources of the racist hate mail. I informed my superiors within the union that my assistance had been requested for the investigation. I was informed by Pam Doige, Staff Administrator for OPSEU that I could not assist in any way with the investigation.
7. One of the letters that was received at the Toronto Jail had red ink on it. The only two computers with colour printers inside the Toronto Jail were in the union office and the front

office. As the local union president I turned the union computer over to investigators for testing. Ultimately it was determined that the computer was not used to create any of the letters.

8. I have not seen any of the settlements from Group B grievors, apart from my own. However, I am aware of one Group B grievor who is currently attending school but is receiving overtime for her weekend work. Based on this I believe that as part of her settlement she received payment for continued education. I am aware of at least one Group B grievor who received a position as a bailiff, which is inside Corrections but meant that he has not had to return to a jail.
9. I am currently employed at the Toronto Jail as an Operational Manager.

DATED 28<sup>TH</sup> MAY 2010



Chris Cosier



Witness: Jackie Esmonde

